

TOWN OF LAMOINE

Minutes of Planning Board Hearing and Meeting

**March 4, 2014
Lamoine Town Hall**

Planning Board Members

Present: Holt, Bamman, Gallagher, Donaldson, Tadema-Wielandt, Weber
(alt), Fowler (alt)

Code Enforcement Officer

Present: M. Jordan

Members of the Public

T. Gott, S. Salsbury, Jane Fowler, V. Sprague, David Sanderson, Walter and
Mary Grenier

Members of the Press

Public Hearing on Doug Gott & Sons, Inc. applications for Site Plan Review permit
and Commercial Building permit (BLUO) on Map 3 Lots 6 and 8

Chair Holt called the hearing to order at 6:32 p.m. S. Salsbury described the
proposal to construct an 80' X 40' steel building and parking area on Lot 8 and an
access road across Lot 6. He noted that "all drainage will occur" within Lot 8.
Holt inquired if any members of the public had questions or comments.
Hearing none, he closed the hearing at 6:34 p.m.

March Meeting of the Lamoine Planning Board

1. Chair Holt called the meeting to order at 6:34 p.m.
2. Consideration of [Minutes](#)
Several clarifications and corrections were suggested by the Board and
agreed to by the secretary.
Tadema-Wielandt (Gallagher) moved to accept the minutes as amended.
Vote: 4-0-1 (Bamman abstaining)
3. [Code Enforcement Officer's](#) Report
 - a. [Permits Issued](#) – Report accepted as submitted
 - b. [Enforcement Actions](#) – Report accepted as submitted
4. [Conservation Commission](#) – No report

5. Old Business

a. Action on Doug Gott & Sons, Inc. applications for Site Plan Review permit and Commercial Building permit (BLUO) on Map 3 Lots 6 and 8

i. Application for Site Plan Review (SPR) permit

Donaldson inquired if there would be an opportunity to discuss whether the proposed uses in this application require a Gravel Ordinance permit. Other Board members indicated a similar interest, given the significant volume of soils to be excavated. Holt said this matter would be discussed.

The Board addressed the conditions that were attached to the completeness review of this application in February. It found that new information submitted by the applicant on Feb. 14 pertained to four of the five conditions:

- Item I-3d: add Map 3 Lot 6

- Item I-3e: add deed to Map 3 Lot 6

- Item I-5a: add more detailed description of the uses and purposes of all aspects of the proposed development – See p. 44 of the application; state the dimensions and purposes of the parking lot/staging area to be constructed; state the dimensions and purposes of the road to be constructed (see also #6 below) and

- Item 6 Additional Requirements: provide a description of the location, width, grades, and profiles of all proposed roads

The Board found that the following condition had not been met:

- Item I-5d: show the 10 foot buffer zone on the western boundary of Lot 6 that is required under the gravel permit governing uses of this parcel.

Salsbury noted that he has submitted a request from his client relevant to this matter that the Board will take up on this agenda.

The Board proceeded to evaluate the application on the SPR Review Standards (Section J). The Board found that the application met all standards except the following:

Standard 1 Preserve and Enhance the Landscape

Holt, noting that the proposal calls for removal of “a great deal of material”, opined that the application does not meet the goal of this standard, particularly in light of the fact that other siting possibilities exist on the properties.

Donaldson, similarly, found that the proposed uses do not “minimize” removal of vegetation or “disturbance of soil” for the purposes described in the application.

Tadema-Wielandt indicated that the proposal includes steps that will screen the development from neighboring properties. He felt, however, that this proposal “triggers the gravel ordinance”.

Bamman said that he finds this to be a “two-phased project”: phase 1 would be to obtain a gravel permit enabling the removal of the 70,000 cubic yards of material; phase 2 would then be to seek a building permit.

Gallagher stated that he could not support this project as the proposal does not “minimize” “insofar as practicable” impacts on the natural state of the site.

Holt and Donaldson both noted that the goals of the project could be met on the properties in a manner that would more fully “minimize” impacts and preserve the landscape.

Holt (Gallagher) moved to find that the application does not meet Review Standard #1. **Motion supported by vote of 4-1 (Tadema-Wielandt)**

NOTE: During the discussion of Review Standard #2, Tadema-Wielandt observed that he had confused the first two standards when commenting on Review Standard #1 and that he wished to reconsider his vote on Review Standard #1. The Board agreed to this request and **Tadema-Wielandt changed his vote from the negative to the affirmative.**

Motion on Review Standard #1 carried by vote of 5-0 to find the application not to meet the standard.

The Board found by unanimous vote that the application met the remaining review standards (see Review Form) except the following:

Review Standard #2 Relation of Proposed Buildings to the Environment

Donaldson stated that he found the removal of 70,000 cubic feet of material and the creation of a large parking area not to comply with the requirements of this standard for “harmonious” relationships with the terrain. Gallagher noted that the “aesthetic quality of the area will be destroyed”. Tadema-Wielandt argued that “it will be improved” because of the buffers. Holt noted that the applicant had “made efforts to relate” the structures harmoniously to the terrain.

Vote on compliance with Standard #2: 2-2-1 (opposed: Donaldson and Gallagher; abstained: Bamman)

NOTE: After considering all Review Standards, Holt asked Bamman if he was willing to reconsider his decision to abstain from this vote. (He had noted earlier that he didn’t “feel ready” to cast a vote yea or nay.)

Bamman indicated that he would now cast a vote in the affirmative. Final vote on Review Standard #2 carried by vote of

3-2 (Donaldson and Gallagher) that the application meets the standard.

In discussion of Review Standard # 10 Groundwater Protection, the Board inquired about the newly submitted information describing the installation of three piezometers on the property. One of these piezometers extends below the floor of the proposed structure (122') and then only to 117' above mean sea level. Thus, there is only one piezometer that sufficiently monitors the relationship of the project to the groundwater. Salsbury pointed out that the original well on the property puts the groundwater level at around 109'.

Donaldson summarized the findings of the review, noting that the Board had found the application to meet all standards except Review Standard #1. Holt (Donaldson) moved to deny the application. There ensued a discussion over the necessity of such a motion. In the interests of time, Holt announced that the Board denies the Site Plan Review permit application for the uses described based on the finding that these uses will not sufficiently preserve and enhance the landscape.

NOTE: Following consideration of the commercial building permit application (see ii below), the Board discussed the fact that the condition placed on the BLUO permit relative to an easement for the access road should also be attached to a Site Plan Review permit, if it is ever issued. Donaldson (Gallagher) moved to reconsider the Site Plan Review vote regarding Review Standard #3. Donaldson (Gallagher) then moved to place the following condition on any future Site Plan Review permit: that an easement for the access road across Lot 6 be obtained prior to the issuance of the permit. **The motion carried by a vote of 5-0.**

ii. Action on BLUO Commercial Building Permit

The Board considered the general Review Criteria in the Building and Land Use Ordinance Section 7 B (4) and found that the application met all applicable review criteria in this section. Findings were unanimous on all applicable criteria except Criterion 4(l). Gallagher and Donaldson each voiced the opinion that the proposed use will have an "unduly adverse effect on the scenic or natural beauty of the area". Donaldson observed that the effect of the proposed use could be significantly modified by removing less soil and siting the building and parking lot differently.

Bamman (Donaldson) moved to reconsider the vote on Criterion 4(c). He noted that Salsbury had stated that no easement currently exists for the access road to cross Lot 6. The Board agreed to reconsider. Bamman moved (Donaldson) to place a condition on the BLUO permit that an easement must be obtained for the road across Lot 6. **Supported by vote of 5-0.**

The Board then considered all Review Criteria for commercial buildings of this size in the BLUO (Section 15F) and found that the application meets all applicable criteria. (See Review Form.). The only criterion not endorsed unanimously by the Board was Criterion 7 Erosion Control.

Holt announced that the application had satisfied all applicable review criteria in the Building and Land Use Ordinance and that a permit with one condition can be issued. The condition: that an easement for the access road across Lot 6 be obtained prior to the issuance of the permit.

Valerie Sprague, a resident of the Mill Road, commented that Mill Road residents are concerned about the heavy-equipment activity this project will generate in the neighborhood, particularly during the construction period. Tim Gott remarked that in the past his company re-routed an access road to the B&H Pit from the Mill Road out of consideration for the residents.

Holt stated that it appears that soil and vegetation (screening) have been removed from the buffer zone of the B&H Pit (Lot 6) on its boundary with the Stevens parcel (Lot 8). He announced that he would place this matter on next month's agenda. Gott remarked that the Code Enforcement Officer had approved the "removal of this material" and contended that "we had a permit to alter" this buffer/screening.

b. Site Plan Review and Gravel Permits – [Harold MacQuinn, Inc. \(Expansion: map 3 Lots 31 and 33\)](#)

Holt announced that Robert Gerber has not submitted his review as of this date.

Fowler asked if the Brutsaert document had been distributed "to everybody". Holt said he thought it had been.

6. New Business

a. Request from Board of Selectmen concerning a public hearing for the citizen-initiated petition to amend the Building and Land Use Ordinance (See memorandum.)

Holt stated that clarifying the Planning Board's obligation to hold such a hearing is now complicated by the possibility that it might need to hold a hearing on the "MUBEC" amendments to the BLUO as well. He reported that he has contacted Maine Municipal Association for a more definitive decision on both matters.

David Sanderson, speaking on behalf of the petitioners, requested that the hearing be held in March and indicated several preferred dates.

Donaldson (Gallagher) moved to hold a public hearing regarding (a) the citizens' petition to amend the BLUO and (b) the "MUBEC" amendments on

March 26 or as soon thereafter as possible in the event that Maine Municipal Association confirms that the Board is responsible for holding these hearings.
Motion passed by vote of 5-0.

b. Request from Stephen Salsbury regarding the installation of monitoring wells by May 1, 2014 for the pits with permits issued since March, 2013. (See letter requesting postponement of this permit condition until November 2, 2014 or later.)

Holt summarized the situation, noting that the pit operators represented by Salsbury had initially refused to comply with the monitoring well requirements of the Gravel Ordinance, knowing that their permits would expire October 31, 2013. They then agreed to install the wells as a condition of their permits, but now are reversing their position again. He stated that he could not support this request as the operators had full knowledge of this requirement as of March 2013 when the town adopted the ordinance amendments "to protect the health of the town, and especially the quantity and quality of water".

Gallagher noted that an important purpose of the monitoring wells was to "begin collecting baseline data" on water quality and quantity. Given the importance of the information to the town, "we must insist", he said, that the wells be installed by May 1, 2014.

Bamman's view was that "until the ordinance is changed, it is dangerous to begin making exceptions...or to permit applicants to ignore them."

Donaldson stated that, if the current effort to study the gravel ordinance yields a decision to remove the monitoring well requirement, "it seems wasteful" to adhere to the May 1 date. Given that the Study Group intends to finish its work in May, he suggested a postponement of the requirement for a few months.

Fowler stated that "it could cost several hundreds of thousands of dollars" in total to install the wells. In response to a query about costs from Tadema-Wielandt, Salsbury estimated the cost to his clients would be between \$75,000 and \$100,000 in total. (Estimating \$6,500 per well for drilling; each water test would run \$750 - \$850). Fowler commented that he had been quoted between \$1850 and \$2850 per test.

Holt commented that "to continue to backpedal" on the ordinance's requirements is to do more long-term damage to the town's environment.

Gallagher noted that to postpone would "undercut the ordinance itself".

Holt (Gallagher) moved that the Board deny this request to amend the monitoring-well condition on the nine recently permitted gravel pits and reaffirm the May 1, 2014 deadline for installation of the wells.

Motion carried by vote of 4-1 (Donaldson)

c. Request from Stephen Salsbury regarding the amendment of the gravel permit issued to Doug Gott and Sons to operate the B&H Pit (Map 3 Lot 6). (See letter requesting permission to "move the buffer" on the northern boundary with Lot 8.)

Salsbury restated the request: to eliminate the “buffer zone” from the gravel pit in consideration of the fact that his client is intending to construct a berm on the northern boundary of Lot 8.

Holt stated that Gott has a permit to operate a gravel pit on Lot 6 and that requires that there be a buffer and screening on Lot 6. Gott stated that “I’m not interested in the buffer any more; I just want to put a berm [on Lot 8]”. Donaldson asked if he meant that Salsbury’s request (in letter) was no longer an issue. Gott replied, “Yes”.

Holt suggested that Gott approach the Code Enforcement Officer with a proposal simply to construct the berm. CEO Jordan commented that Gott’s interest seems to be to “move the screening” from the buffer on Lot 6 and replace it with the berm’s screening.

Donaldson noted that most of the screening in question has already been removed. Jordan observed that the Board “could require him to replace it.”

7. Other Public Matters

The Board developed a plan to present the three amendments to the Gravel Ordinance at [Town Meeting March 12](#). The summary of the amendments developed by Donaldson has been posted and distributed electronically and is available at the Town Hall. Copies will be available at Town Meeting. Giving a very brief summary of proposed changes and fielding questions at Town Meeting will be C. Tadema-Wielandt (Appeals), J. Holt (buffer zone), and G. Donaldson (Restoration Account).

8. Ordinance Matters None

9. Planning Board By-Laws draft. Carried over to a future meeting.

9. Next Meetings:

April 1, 2014

May 6, 2014

10. Adjourned at 9:22 p.m.

Respectfully Submitted,

Gordon Donaldson, Secretary